

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL & APPEAL BOARD**

*In re the Application of Wright Medical Technology, Inc.:*

Application No.: 76/191,390  
Mark: OLYMPIA  
Filed: January 9, 2001  
Int'l Class: 10  
Published: August 21, 2001 (1249 T.M.O.G. 282)



12-21-2001

U.S. Patent &amp; TMO/TM Mail Rpt Dt. #01

Olympus Optical Co., Ltd.	)	
(Japanese joint stock company),	)	Attorney Docket No. 53375/1458
	)	
Opposer,	)	
	)	
v.	)	Opposition No. 91150270
	)	
Wright Medical Technology, Inc.	)	
(Delaware corporation),	)	Attorney Docket No. A0,513
	)	
Applicant.	)	

**Applicant's Motion  
to Amend the Identification of Goods  
under 37 C.F.R. § 2.127(a) and 37 C.F.R. § 2.133(a)**

1 Applicant, Wright Medical Technology, Inc., by and through its attorneys, hereby moves  
2 to amend the identification of goods of its subject application under 37 C.F.R. § 2.127(a) and 37  
3 C.F.R. § 2.133(a), such that the description of goods becomes narrowed to state with greater  
4 specificity only those goods on which Applicant intends to use its subject mark.

5 More specifically, Applicant moves to amend the identification of goods to now be:  
6 MEDICAL APPARATUS, NAMELY, AN ORTHOPEDIC SHOULDER  
7 IMPLANT THAT FITS INTO AND REPLACES THE UPPER END OF THE  
8 HUMERUS BONE AND RELATED SURGICAL INSTRUMENTATION FOR  
9 IMPLANTATION THEREOF in International Class 10.

1                                   **Applicant's Brief Memorandum in Support**

2           As originally filed and as published at 1249 *T.M.O.G.* 282 (Aug. 21, 2001), the  
3 description of goods for Applicant's subject application was broadly given as:

4           MEDICAL APPARATUS, NAMELY, ORTHOPEDIC IMPLANTS AND  
5 RELATED SURGICAL INSTRUMENTATION THEREFOR in International  
6 Class 10.

7           Applicant's actual intended use of its subject mark OLYMPIA is for a much narrower  
8 description of goods, namely:

9           MEDICAL APPARATUS, NAMELY, AN ORTHOPEDIC SHOULDER  
10 IMPLANT THAT FITS INTO AND REPLACES THE UPPER END OF THE  
11 HUMERUS BONE AND RELATED SURGICAL INSTRUMENTATION FOR  
12 IMPLANTATION THEREOF in International Class 10.

13          Because this amendment to the description of goods produces a resulting description of  
14 goods that is not broader than, and that is instead narrower than, the scope of the description of  
15 goods in the application as filed, such an amendment restricting the scope of the description of  
16 goods is proper. 37 C.F.R. § 2.71(a). Furthermore, because the identification of goods has been  
17 restricted and narrowed, and because the classification of the goods is not changed, republication  
18 of this mark is not required. T.M.E.P. § 1505.01(a); T.M.E.P. § 1505.01(b).

19          Additionally, by clarifying and narrowing the description of goods, the issues at trial  
20 during this opposition proceeding will be narrower, thereby reducing the scope of discovery and  
21 easing the burden on the Board when making its decision.

22          Because this opposition proceeding is only at the opening threshold of its discovery  
23 period, Applicant submits that Opposer will not be prejudiced by this amendment to the  
24 description of goods.

25          Accordingly, Applicant hereby requests that the Board grant this motion for amendment  
26 of the identification of goods as indicated above.

Respectfully submitted,

WRIGHT MEDICAL TECHNOLOGY, INC.

Date: 12/21/2001

By: Russell H. Walker

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Attorney for Applicant

*Certificate of Service* - I hereby certify that a true copy of the foregoing Applicant's Motion to Amend the Identification of Goods under 37 C.F.R. § 2.127(a) and 37 C.F.R. § 2.133(a) is being deposited with the United States Postal Service as U.S. First Class Mail, postage prepaid, on **December 21, 2001**, in an envelope addressed to Opposer's counsel,

Allen J. Baden, Esq.  
Kenyon & Kenyon  
333 West San Carlos Street, Sixth Floor  
San Jose, California 95110

Date: 12/21/2001

Russell H. Walker

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U.S.P.T.O. Registration No. 35,401

*Certificate of Express Mailing under 37 C.F.R. § 1.10*

Express Mail Label No.: EL036183597US

I hereby certify pursuant to 37 C.F.R. § 1.10 that the foregoing Applicant's Motion to Amend the Identification of Goods under 37 C.F.R. § 2.127(a) and 37 C.F.R. § 2.133(a) is being deposited by me with the United States Postal Service as U.S. Postal Service Express Mail - Post Office to Addressee, postage prepaid, on **December 21, 2001**, in an envelope addressed to:

Commissioner for Trademarks  
Box TTAB - No Fee  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

Date: 12 / 21 / 2001

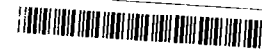
Russell H. Walker

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U.S.P.T.O. Registration No. 35,401  
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL & APPEAL BOARD**

*In re the Application of* Wright Medical Technology, Inc.:

Application No.: 76/191,390  
Mark: OLYMPIA  
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Opposer,	)	
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v.	)	Opposition No. 91150270
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Wright Medical Technology, Inc.	)	
(Delaware corporation),	)	Attorney Docket No. A0,513
	)	
Applicant.	)	

**Applicant's Answer  
to the Notice of Opposition**

Commissioner for Trademarks  
Box TTAB - No Fee  
2900 Crystal Drive  
Arlington, Virginia 22202-3513

1 Sir:

2 Applicant, Wright Medical Technology, Inc., by and through its attorneys, hereby

3 responds to the like-numbered paragraphs of the Notice of Opposition of Olympus Optical Co.,

4 Ltd. ("Opposer"), as follows:

5 1. Denied that Opposer will be damaged by registration of the designation

6 "OLYMPIA" shown in Application No. 76/191,390. Strict proof is demanded. Otherwise

7 denied for lack of knowledge as to the truth of Opposer's allegations. Strict proof is demanded.

8 To the extent that Opposer otherwise avers legal arguments or conclusions, no response is

1 required.

2 2. Admitted.

3 3. Admitted.

4 4. Admitted.

5 5. Admitted.

6 6. Denied, for lack of knowledge as to the truth of Opposer's allegations. Strict  
7 proof is demanded. To the extent that Opposer otherwise avers legal arguments or conclusions,  
8 no response is required.

9 7. Admitted that the recited application numbers and/or registration numbers are for  
10 their respective recited marks having goods in International Class 10. Denied that the indicated  
11 applications and registrations are for a "wide range" of medical devices. Strict proof is demanded.  
12 Otherwise denied, for lack of knowledge as to the truth of Opposer's allegations. Strict proof is  
13 demanded. To the extent that Opposer otherwise avers legal arguments or conclusions, no  
14 response is required.

15 8. Denied. Exhibit A to the Notice of Opposition appears to be a photocopy of  
16 page T.M. 282 of the *Official Gazette* as published on August 21, 2001. Strict proof is demanded  
17 of Opposer's allegations.

18 9. Admitted that U.S. Registration No. 1,044,043 is for the mark OLYMPUS.  
19 Otherwise denied for lack of knowledge as to the truth of Opposer's allegations. Strict proof is  
20 demanded.

21 10. Admitted that Intent-to-Use application 76/278,965 for the mark OLYMPUS was  
22 filed July 2, 2001, almost six months subsequent to the filing of Applicant's instant application.  
23 Admitted that the identification of goods as filed for said application 76/278,965 included  
24 artificial limbs, eyes and teeth, and orthopedic articles in International Class 10, and that said  
25 identification of goods has been deemed unacceptable by the U.S. Patent and Trademark Office.  
26 Denied, for lack of knowledge as to the truth of Opposer's allegations, that Opposer is the owner  
27 of said application 76/278,965. Strict proof is demanded. Otherwise denied for lack of

1 knowledge as to the truth of Opposer's allegations. Strict proof is demanded.

2 11. Denied that the OLYMPUS mark is well-known and famous. Strict proof is  
3 demanded. Otherwise denied for lack of knowledge as to the truth of Opposer's allegations.  
4 Strict proof is demanded. To the extent that Opposer otherwise avers legal arguments or  
5 conclusions, no response is required.

6 12. Because the ambiguous phrase "the OLYMPUS marks" is not defined by  
7 Opposer in the Notice of Opposition, Applicant is neither able to admit nor deny any allegations  
8 by Opposer that use this phrase, because Applicant is unsure as to what marks are encompassed  
9 by that phrase as used by Opposer in the Notice of Opposition. Otherwise denied, for lack of  
10 knowledge as to the truth of Opposer's allegations. Strict proof is demanded. To the extent that  
11 Opposer otherwise avers legal arguments or conclusions, no response is required.

12 13. Because the ambiguous phrase "the OLYMPUS marks" is not defined by  
13 Opposer in the Notice of Opposition, Applicant is neither able to admit nor deny any allegations  
14 by Opposer that use this phrase, because Applicant is unsure as to what marks are encompassed  
15 by that phrase as used by Opposer in the Notice of Opposition. Otherwise denied, for lack of  
16 knowledge as to the truth of Opposer's allegations. Strict proof is demanded. To the extent that  
17 Opposer otherwise avers legal arguments or conclusions, no response is required.

18 14. Because the ambiguous phrase "the OLYMPUS marks" is not defined by  
19 Opposer in the Notice of Opposition, Applicant is neither able to admit nor deny any allegations  
20 by Opposer that use this phrase, because Applicant is unsure as to what marks are encompassed  
21 by that phrase as used by Opposer in the Notice of Opposition. Otherwise denied, for lack of  
22 knowledge as to the truth of Opposer's allegations. Strict proof is demanded. To the extent that  
23 Opposer otherwise avers legal arguments or conclusions, no response is required.

24 15. Admitted that Applicant plans to sell (or is selling) medical apparatus goods,  
25 specifically, an orthopedic shoulder implant that fits into and replaces the upper end of the  
26 humerus bone and related surgical instrumentation for implantation thereof, in connection with  
27 the mark OLYMPIA. Because the ambiguous phrase "the OLYMPUS marks" is not defined by

1 Opposer in the Notice of Opposition, Applicant is neither able to admit nor deny any allegations  
2 by Opposer that use this phrase, because Applicant is unsure as to what marks are encompassed  
3 by that phrase as used by Opposer in the Notice of Opposition. Denied, for lack of knowledge  
4 as to Opposer's customers and actual purchasers of Opposer's products, and for lack of  
5 knowledge as to whether Opposer has sold products under the mark OLYMPUS, and for lack of  
6 knowledge as to the scope of any such products that may have been sold by Opposer, whether  
7 any of Applicant's customers for its goods of the instant application would likely be familiar  
8 with products sold by Opposer. Strict proof is demanded. Otherwise denied, for lack of  
9 knowledge as to the truth of Opposer's allegations. Strict proof is demanded. To the extent that  
10 Opposer otherwise avers legal arguments or conclusions, no response is required.

11 16. Because the ambiguous phrase "the OLYMPUS marks" is not defined by  
12 Opposer in the Notice of Opposition, Applicant is neither able to admit nor deny any allegations  
13 by Opposer that use this phrase, because Applicant is unsure as to what marks are encompassed  
14 by that phrase as used by Opposer in the Notice of Opposition. Otherwise denied, for lack of  
15 knowledge as to the truth of Opposer's allegations. Strict proof is demanded. To the extent that  
16 Opposer's allegations require Applicant to speculate as to Opposer's future use of Opposer's  
17 marks, no response is required. To the extent that Opposer otherwise avers legal arguments or  
18 conclusions, no response is required.

19 17. Denied. Strict proof is demanded. To the extent that Opposer otherwise avers  
20 legal arguments or conclusions, no response is required.

21 18. Denied. Strict proof is demanded. To the extent that Opposer otherwise avers  
22 legal arguments or conclusions, no response is required.

23 19. Denied. Strict proof is demanded. To the extent that Opposer otherwise avers  
24 legal arguments or conclusions, no response is required.

25 20. Denied. Strict proof is demanded. To the extent that Opposer otherwise avers  
26 legal arguments or conclusions, no response is required.

27 21. Denied. Strict proof is demanded. To the extent that Opposer otherwise avers



1 legal arguments or conclusions, no response is required.

2 22. Denied. Strict proof is demanded. To the extent that Opposer otherwise avers  
3 legal arguments or conclusions, no response is required.

4 23. Denied. Strict proof is demanded. To the extent that Opposer otherwise avers  
5 legal arguments or conclusions, no response is required.

6 24. Denied. Strict proof is demanded. To the extent that Opposer otherwise avers  
7 legal arguments or conclusions, no response is required.

### 8 **Affirmative Defenses**

9 Applicant hereby alleges the following affirmative defenses:

10 25. Pages 7-10 of Opposer's Notice of Opposition consist of 34 numbered  
11 paragraphs with headings of "Partial List of Olympus Registrations" (paragraphs 1-18) and  
12 "Partial List of Olympus' Pending Trademark Applications" (paragraphs 19-34) (taken together,  
13 the "two Partial Lists"). Because Opposer's Notice of Opposition has not referenced these 34  
14 numbered paragraphs of these two Partial Lists as a part of Opposer's allegations in the Notice  
15 of Opposition and has made no allegations regarding same, no denials by Applicant are required  
16 thereof.

17 26. Insofar as these 34 numbered paragraphs of these two Partial Lists may be  
18 implied as allegations by Opposer that Opposer is the owner of the listed marks, registrations,  
19 and/or applications, Applicant denies, for lack of knowledge as to the truth of Opposer's  
20 allegations, that Opposer is the owner of the listed marks, registrations, and/or applications.  
21 Furthermore, upon information and belief, and according to the public records of the U.S. Patent  
22 and Trademark Office, Opposer is not the owner of all of the registrations and/or applications  
23 given in the two Partial Lists. Strict proof is demanded of Opposer's alleged ownership of each  
24 and every listed mark, registration, and/or application on the two Partial Lists.

25 27. Insofar as the 18 numbered paragraphs of the "Partial List of Olympus  
26 Registrations" may be implied as allegations by Opposer that the registrations listed therein are

1 still in force, upon information and belief, and according to the public records of the U.S. Patent  
2 and Trademark Office, not all of the registrations listed therein are still in force. Strict proof is  
3 demanded that each and every registration listed on the "Partial List of Olympus Registrations"  
4 is still in force.

5 28. Insofar as the 16 numbered paragraphs of the "Partial List of Olympus' Pending  
6 Trademark Applications" may be implied as allegations by Opposer that the applications listed  
7 therein are still pending, upon information and belief, and according to the public records of the  
8 U.S. Patent and Trademark Office, at least one-fourth of the applications listed therein have been  
9 abandoned by Opposer. Strict proof is demanded that each and every application listed on the  
10 "Partial List of Olympus' Pending Trademark Applications" is still pending and has not been  
11 abandoned by Opposer.

12 29. Insofar as the 34 numbered paragraphs of these two Partial Lists may be implied  
13 as allegations by Opposer that the marks therein are in use and have not been abandoned,  
14 Applicant denies, for lack of knowledge as to the truth of Opposer's allegations, that Opposer is  
15 using and has not abandoned the mark(s) of the registrations and/or applications on the two  
16 Partial Lists.

17 30. Opposer has not used any mark having the term OLYMPUS in commerce on or in  
18 connection with orthopedic implants and related surgical instrumentation for implantation  
19 thereof.

20 31. Opposer has not used any mark having the term OLYMPUS in commerce on or in  
21 connection with an orthopedic shoulder implant that fits into and replaces the upper end of the  
22 humerus bone and related surgical instrumentation for implantation thereof.

23 32. Applicant's instant application has an earlier filing date than the filing date of  
24 Opposer's pleaded U.S. Trademark Application No. 76/278,965.

25 33. Opposer cannot prove an actual date of use in commerce for any mark having the  
26 term OLYMPUS used on or in connection with its pleaded goods of "artificial limbs, eyes and  
27 teeth and orthopedic articles" that is prior to January 9, 2001, the filing date of Applicant's

1 instant application.

2 34. Opposer cannot prove a constructive date of use in commerce for any mark having  
3 the term OLYMPUS used on or in connection with its pleaded goods of “artificial limbs, eyes  
4 and teeth and orthopedic articles” that is prior to January 9, 2001, the filing date of Applicant’s  
5 instant application.

6 35. Applicant has priority over Opposer’s pleaded application No. 76/278,965.

7 36. When considered in their entirety, Applicant’s mark OLYMPIA is dissimilar in  
8 appearance, sound, connotation and commercial impression to any Opposer’s unabandoned mark  
9 having the word OLYMPUS as a part thereof.

10 37. Orthopedic implants and related surgical instrumentation for implantation thereof  
11 are dissimilar to and are non-overlapping with any goods or services, as described in any non-  
12 expired registration now owned by Opposer, in connection with which Opposer uses any mark  
13 having the word OLYMPUS as a part thereof.

14 38. Orthopedic implants and related surgical instrumentation for implantation thereof  
15 are dissimilar to and are non-overlapping with any goods or services, as described in any pending  
16 application now owned by Opposer and having a constructive date of use or priority date prior  
17 to January 9, 2001, for any mark having the word OLYMPUS as a part thereof.

18 39. Orthopedic implants and related surgical instrumentation for implantation thereof  
19 are dissimilar to and are non-overlapping with any goods or services in connection with which,  
20 prior to January 9, 2001, Opposer had used, and has not now abandoned, any mark having the  
21 word OLYMPUS as a part thereof.

22 40. Orthopedic shoulder implants that fit into and replace the upper end of the  
23 humerus bone and related surgical instrumentation for implantation thereof are dissimilar to and  
24 are non overlapping with any goods or services, as described in any non-expired registration now  
25 owned by Opposer, in connection with which Opposer uses any mark having the word  
26 OLYMPUS as a part thereof.

27 41. Orthopedic shoulder implants that fit into and replace the upper end of the

1 humerus bone and related surgical instrumentation for implantation thereof are dissimilar to and  
2 are non-overlapping with any goods or services, as described in any pending application now  
3 owned by Opposer and having a constructive date of use or priority date prior to January 9,  
4 2001, for any mark having the word OLYMPUS as a part thereof.

5 42. Orthopedic shoulder implants that fit into and replace the upper end of the  
6 humerus bone and related surgical instrumentation for implantation thereof are dissimilar to and  
7 are non-overlapping with any goods or services in connection with which, prior to January 9,  
8 2001, Opposer had used, and has not now abandoned, any mark having the word OLYMPUS as  
9 a part thereof.

10 43. Applicant's orthopedic shoulder implants that fit into and replace the upper end  
11 of the humerus bone and related surgical instrumentation for implantation thereof have dissimilar  
12 established, likely-to-continue channels of trade as compared with any goods or services, as  
13 described in any non-expired registration now owned by Opposer, in connection with which  
14 Opposer uses any mark having the word OLYMPUS as a part thereof.

15 44. Applicant's orthopedic shoulder implants that fit into and replace the upper end  
16 of the humerus bone and related surgical instrumentation for implantation thereof have dissimilar  
17 established, likely-to-continue channels of trade as compared with any goods or services, as  
18 described in any pending application now owned by Opposer and having a constructive date of  
19 use or priority date prior to January 9, 2001, for any mark having the word OLYMPUS as a part  
20 thereof.

21 45. Applicant's orthopedic shoulder implants that fit into and replace the upper end  
22 of the humerus bone and related surgical instrumentation for implantation thereof have dissimilar  
23 established, likely-to-continue channels of trade as compared with any goods or services in  
24 connection with which, prior to January 9, 2001, Opposer had used, and has not now abandoned,  
25 any mark having the word OLYMPUS as a part thereof.

26 46. None of the goods or services of the applications or registrations alleged in  
27 Paragraph 7 of the Notice of Opposition are prescribed by, specified by, or marketed to

1   orthopedic implant surgeons.

2           47.   None of the goods or services of Application 76/278,965 alleged in Paragraph 10  
3   of the Notice of Opposition on which Opposer allegedly intends to use the mark OLYMPUS are  
4   prescribed by, specified by, or marketed to orthopedic implant surgeons.

5           48.   Applicant's goods of orthopedic shoulder implants that fit into and replace the  
6   upper end of the humerus bone and related surgical instrumentation for implantation thereof are  
7   intended to be used only by, may only be prescribed and specified by, and will be marketed only  
8   to, orthopedic implant surgeons.

9           49.   Orthopedic implant surgeons are sophisticated prescribers and specifiers of  
10   Applicant's goods of orthopedic shoulder implants that fit into and replace the upper end of the  
11   humerus bone and related surgical instrumentation for implantation thereof, and prescribe and  
12   specify such goods only after careful, non-impulsive, consideration.

13          50.   The mark OLYMPUS, if still in use and not abandoned by Opposer, is not  
14   famous.

15          51.   Even if the mark OLYMPUS, if still in use and not abandoned by Opposer, has  
16   become well known and famous to some degree, any such alleged knowledge of that mark and any  
17   alleged fame is for non-medical goods/services and does not extend into the field of orthopedic  
18   implants.

19          52.   There are other marks, such as those of the U.S. Olympic Committee, having the  
20   prefix "OLYMP" and/or "OLYM" for goods in International Class 10, so any protection  
21   afforded any party for non-identical marks having the prefix "OLYMP" or "OLYM" for goods in  
22   International Class 10 will be narrowly limited to the specific goods on which such marks are  
23   actually used.

24          53.   Opposer cannot show how any purchaser or prospective purchaser of any of the  
25   goods/services of any of its alleged registrations and applications filed prior to Applicant's  
26   instant application will be or is likely to be confused, misled, or deceived by Applicant's  
27   intended use of the mark OLYMPIA for Applicant's goods of orthopedic shoulder implants that

1 fit into and replace the upper end of the humerus bone and related surgical instrumentation for  
2 implantation thereof.

3 54. Any potential confusion is non-existent or *de minimis* between, on the one hand,  
4 Opposer's alleged use of the mark OLYMPUS, when used on or in connection with any of the  
5 goods/services of any of its alleged registrations and applications filed prior to Applicant's  
6 instant application, and, on the other hand, Applicant's intended use of the mark OLYMPIA for  
7 Applicant's goods of orthopedic shoulder implants that fit into and replace the upper end of the  
8 humerus bone and related surgical instrumentation for implantation thereof.

9 55. By falsely representing in its Notice of Opposition that it is the owner of all of  
10 the registrations and/or applications given in the two Partial Lists, Opposer has fraudulently  
11 attempted to mislead the Board in this opposition proceeding, and Opposer thus has unclean  
12 hands.

13 56. By falsely representing in its Notice of Opposition that all of the registrations  
14 listed on the "Partial List of Olympus Registrations" are still in force when such is not the case,  
15 Opposer has fraudulently attempted to mislead the Board in this opposition proceeding, and  
16 Opposer thus has unclean hands.

17 57. By falsely representing in its Notice of Opposition that all of the applications  
18 listed on the "Partial List of Olympus' Pending Trademark Applications" are still pending when  
19 at least one-fourth of the listed applications have been abandoned, Opposer has fraudulently  
20 attempted to mislead the Board in this opposition proceeding, and Opposer thus has unclean  
21 hands.

22 58. Opposer's opposition is groundless and baseless in fact.

23 59. Opposer cannot show how it will be or is likely to be damaged by the registration  
24 of Applicant's mark.

25 60. Even if the Board finds that Opposer is entitled to judgment with respect to  
26 Applicant's goods as broadly identified in this application, Applicant is entitled to registration of  
27 its mark with a restricted identification of goods reflecting the actual nature of its goods, namely,

1 "an orthopedic shoulder implant that fits into and replaces the upper end of the humerus bone  
2 and related surgical instrumentation for implantation thereof" in International Class 10.

3 **Relief Requested**

4 1. Applicant, Wright Medical Technology, Inc., requests that this Opposition be  
5 dismissed with prejudice to Opposer and that Applicant's registration issue forthwith.

6 2. In the alternative, even if the Board finds that Opposer is entitled to judgment  
7 with respect to Applicant's goods as broadly identified in this application, Applicant requests  
8 that its registration be allowed to issue with a restricted identification of goods reflecting the  
9 actual nature of its goods, namely, "an orthopedic shoulder implant that fits into and replaces the  
10 upper end of the humerus bone and related surgical instrumentation for implantation thereof" in  
11 International Class 10.

Respectfully submitted,

WRIGHT MEDICAL TECHNOLOGY, INC.

Date: 12/21/2001

OF COUNSEL:

Russell H. Walker  
Larry W. McKenzie

Walker, McKenzie & Walker, P.C.  
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Memphis, Tennessee 38119-4896  
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By: Russell H. Walker

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Tel. No. (901) 685-7428  
U.S.P.T.O. Registration No. 35,401  
One of its Attorneys

*Certificate of Service* - I hereby certify that one copy of the foregoing Applicant's Answer to the Notice of Opposition is being deposited with the United States Postal Service as U.S. First Class Mail, postage prepaid, on **December 21, 2001**, in an envelope addressed to Opposer's counsel,

Allen J. Baden, Esq.  
Kenyon & Kenyon  
333 West San Carlos Street, Sixth Floor  
San Jose, California 95110

Date:

12/21/2001

Russell H. Walker

Russell H. Walker  
U.S.P.T.O. Registration No. 35,401

*Certificate of Express Mailing under 37 C.F.R. § 1.10*

Express Mail Label No.: EL036183597US

I hereby certify pursuant to 37 C.F.R. § 1.10 that the foregoing Applicant's Answer to the Notice of Opposition is being deposited by me with the United States Postal Service as U.S. Postal Service Express Mail - Post Office to Addressee, postage prepaid, on **December 21, 2001**, in an envelope addressed to:

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Arlington, Virginia 22202-3513

Date:

12/21/2001

Russell H. Walker

Russell H. Walker  
U.S.P.T.O. Registration No. 35,401  
(Person making deposit)



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EL 0361835970S

TRADEMARK

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL & APPEAL BOARD

*In re the Application of Wright Medical Technology, Inc.:*

Application No.: 76/191,390  
Mark: OLYMPIA  
Filed: January 9, 2001  
Int'l Class: 10  
Published: August 21, 2001 (1249 T.M.O.G. 282)



12-21-2001

U.S. Patent & TMO/TM Mail Rpt Dt. #01

Olympus Optical Co, Ltd	)	
(Japanese joint stock company),	)	Attorney Docket No. 53375/1458
	)	
Opposer,	)	
	)	
v.	)	Opposition No. 91150270
	)	
Wright Medical Technology, Inc.	)	
(Delaware corporation),	)	Attorney Docket No. A0,513
	)	
Applicant.	)	

Commissioner for Trademarks  
Box TTAB - No Fee  
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Arlington, Virginia 22202-3513

Sir:

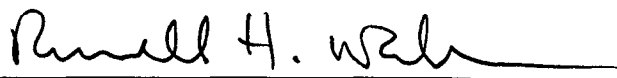
Enclosed herewith are the documents set forth hereinbelow for processing:

- (1) Applicant's Motion to Amend the Identification of Goods  
under 37 C.F.R. § 2.127(a) and 37 C.F.R. § 2.133(a) (4 pages)
- (2) Applicant's Answer to the Notice of Opposition (12 pages)
- (3) a return receipt postcard.

Please charge any additional fees or credit any overpayment concerning  
the filing of the enclosed documents to Deposit Account No. 23-0125.

Respectfully submitted,

Wright Medical Technology, Inc.

By: 

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